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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,301

01/13/2006

Atsushi Kikuchi

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EXAMINER

AUGHENBAUGH, WALTER

ART UNIT

PAPER NUMBER

1782

NOTIFICATION DATE

DELIVERY MODE

04/01/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com  
PPROCESSING@SUGHRUE.COM  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/533,301	KIKUCHI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	WALTER B. AUGHENBAUGH	1782	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) 6-8,11 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,10 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

#### **Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 10, 2010 has been entered.

### **WITHDRAWN REJECTIONS**

2. The 35 U.S.C. 102(b) rejection of claims 1-3, 10 and 12 as being anticipated by Schmidt et al. (USPN 5,804,016) has been withdrawn due to Examiner's reconsideration of the rejection.

### **NEW REJECTIONS**

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### **Claim Rejections - 35 USC § 102**

4. Claims 1, 2, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi et al. (USPN 6,929,836).

In regard to claim 1, Kikuchi et al. teach a compression-formed preform having structural and compositional limitations that correspond to the claimed preform that is formed from a melt extrusion molten resin mass. See, for example, claim 1 at col. 11, line 50-col. 12, line 7, col. 3, lines 20-31, Example 2 at col. 9, lines 52-60, col. 7, line 48- col. 8, line 18, Fig. 1 and Fig. 5.

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Kikuchi et al. teach that recycled polyester resin is a suitable material for the resin (see, for example, col. 6, lines 55-65 and col. 3, lines 32-37 and Example 2 at col. 9, lines 52-60). Since Kikuchi et al. teach a preform having structural and compositional limitations that correspond to that of the claimed preform, the skilled artisan would expect the inherent physical characteristics, such as the time before a calorific value of isothermal crystallization of the layer of polyester resin, to be the same, as well, since there is nothing otherwise recited that would lead to a different result.

In regard to claim 2, Kikuchi et al. teach that polyethylene terephthalate is a suitable material for the polyester (see, for example, col. 6, lines 5-15 and col. 6, lines 25-36), so the amount of ethylene terphthalate units is over 95% (100%) when the resin is polyethylene terephthalate. Since Kikuchi et al. teach a preform having structural and compositional limitations that correspond to that of the claimed preform, the skilled artisan would expect the inherent physical characteristics, such as the time before a calorific value of isothermal crystallization of the layer of polyester resin, to be the same, as well, since there is nothing otherwise recited that would lead to a different result.

In regard to claims 10 and 12, Kikuchi et al. teach that the melt extruded molten resin mass remains in a molten state until it is subjected to the compression forming step. Claim 1 at col. 11, line 50-col. 12, line 7, col. 7, line 48- col. 8, line 18 and Fig. 5.

### **Response to Arguments**

5. Applicant argues on pages 5-11 of the Amendment filed September 10, 2010 that the time before a calorific value of isothermal crystallization property is present in Applicant's

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invention because the preform is compression molded, as opposed to injection molded. In other words, that the claimed "time..." property of Applicant's preform is not shorter than 300 seconds because Applicant's preform is compression molded, and that injection molded preforms have a claimed "time..." property of less than 300 seconds (Applicant cites a particular example in Applicant's specification on page 8 of the Amendment filed September 10, 2010).

Since Kikuchi et al. (USPN 6,929,836) teach a compression molded preform having structural and compositional limitations that correspond to that of the claimed preform, the compression molded preform of Kikuchi et al. has a claimed "time..." property of not less than 300 seconds, because the preform is compression molded, as follows from Applicant's arguments on pages 5-11 of the Amendment filed September 10, 2010.

### **Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 7:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Walter B Aughenbaugh /

Examiner, Art Unit 1782

3/28/11